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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/659,605	09/10/2003	Gillian Mary Mathias	P01933US	5309
7590	07/13/2004		EXAMINER	
PAUL E MILLIKEN 9061 WALL STREET, NW MASSILLON, OH 44646-1676			COE, SUSAN D	
			ART UNIT	PAPER NUMBER
			1654	
DATE MAILED: 07/13/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/659,605	MATHIAS, GILLIAN MARY
	Examiner Susan D. Coe	Art Unit 1654

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) Responsive to communication(s) filed on 23 June 2004.
- 2a) This action is FINAL.      2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) Claim(s) 1-11 is/are pending in the application.
  - 4a) Of the above claim(s) 6, 7 and 9 is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-5, 8, 10 and 11 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                    | Paper No(s)/Mail Date. _____.   |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____. | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|   | 6) <input type="checkbox"/> Other: _____.                                   |

**DETAILED ACTION**

1. Claims 1-11 are currently pending.

***Election/Restrictions***

2. Applicant's election with traverse of Group III, claims 1-5, 8, 10, and 11 in the reply filed on June 23, 2004 is acknowledged. The traversal is on the ground(s) that claim 1 is generic for the entire invention; thus, if claim one is found allowable then all the claims would be allowable. The examiner agrees that claim 1 is generic to all of the claims; however, a search of all of the possible claimed essential oil composition would be burdensome and time consuming. In addition, each different essential oil composition would have different effects on the animal. Thus, restriction amongst the different essential oil compositions is proper.

The requirement is still deemed proper and is therefore made FINAL.

3. Claims 6, 7, and 9 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on June 23, 2004.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 2 and 4 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

4. The term "substantially" in claim 2 is a relative term which renders the claim indefinite. The term "substantially" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention.

5. The term "close" in claim 4 is a relative term which renders the claim indefinite. The term "close" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later

invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

6. Claims 1-5, 10, and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over WO 00/40084 in view of US Pat. No. 5,885,600.

WO '084 teaches a plastic animal tag that is attached to the animal's collar. The tag is a flat circular disc (see figures and page 14). The tag is impregnated with insecticidal compounds; however, the reference does not specifically teach impregnating the disc with essential oils.

US '600 teaches that essential oils can be impregnated into plastic in order to repel insects from animals (see column 5, lines 41-50). Thus, a person of ordinary skill in the art would reasonably expect that the insect repellants in the animal tag of WO '084 could successfully be substituted with essential oils. Based on this reasonable expectation of successful results, an artisan of ordinary skill would have been motivated to modify the animal tag of WO '084 to include essential oils.

The references also do not specifically teach using the essential oils in the amounts claimed by applicant. The amount of a specific ingredient in a to use to impregnate the plastic tag is clearly a result effective parameter that a person of ordinary skill in the art would routinely optimize. Optimization of parameters is a routine practice that would be obvious for a person of ordinary skill in the art to employ. It would have been customary for an artisan of ordinary skill to determine the optimal amount of each essential oil to add in order to best achieve the desired results. Thus, absent some demonstration of unexpected results from the claimed parameters, this optimization of ingredient amount would have been obvious at the time of applicant's invention.

7. Claims 1-5, 10, and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over WO 00/40084 in view of US Pat. No. 5,017,377.

As discussed above, WO '084 teaches a plastic animal tag that is attached to the animal's collar. The tag is a flat circular disc (see figures and page 14). The tag is impregnated with insecticidal compounds; however, the reference does not specifically teach impregnating the disc with essential oils.

US '377 teaches that essential oils can be impregnated into plastic in order to repel insects from animals (see column 6, lines 42-49). Thus, a person of ordinary skill in the art would reasonably expect that the insect repellants in the animal tag of WO '084 could successfully be substituted with essential oils. Based on this reasonable expectation of successful results, an artisan of ordinary skill would have been motivated to modify the animal tag of WO '084 to include essential oils.

The references also do not specifically teach using the essential oils in the amounts claimed by applicant. The amount of a specific ingredient in a to use to impregnate the plastic tag is clearly a result effective parameter that a person of ordinary skill in the art would routinely optimize. Optimization of parameters is a routine practice that would be obvious for a person of ordinary skill in the art to employ. It would have been customary for an artisan of ordinary skill to determine the optimal amount of each essential oil to add in order to best achieve the desired results. Thus, absent some demonstration of unexpected results from the claimed parameters, this optimization of ingredient amount would have been obvious at the time of applicant's invention.

7. Claims 1-5, 10, and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over WO 00/40084 in view of US Pat. No. 6,270,753.

As discussed above, WO ‘084 teaches a plastic animal tag that is attached to the animal’s collar. The tag is a flat circular disc (see figures and page 14). The tag is impregnated with insecticidal compounds; however, the reference does not specifically teach impregnating the disc with essential oils.

US ‘753 teaches that essential oils can be impregnated into plastic in order to repel insects from animals (see column 3, lines 17-20). Thus, a person of ordinary skill in the art would reasonably expect that the insect repellants in the animal tag of WO ‘084 could successfully be substituted with essential oils. Based on this reasonable expectation of successful results, an artisan of ordinary skill would have been motivated to modify the animal tag of WO ‘084 to include essential oils.

The references also do not specifically teach using the essential oils in the amounts claimed by applicant. The amount of a specific ingredient in a to use to impregnate the plastic tag is clearly a result effective parameter that a person of ordinary skill in the art would routinely optimize. Optimization of parameters is a routine practice that would be obvious for a person of ordinary skill in the art to employ. It would have been customary for an artisan of ordinary skill to determine the optimal amount of each essential oil to add in order to best achieve the desired results. Thus, absent some demonstration of unexpected results from the claimed parameters, this optimization of ingredient amount would have been obvious at the time of applicant’s invention.

8. Claims 1 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over WO 00/40084 in view of US Pat. No. 6,270,753, US Pat. No. 5,885,600, and US Pat. No. 5,017,377.

As discussed above, WO '084 teaches a plastic animal tag that is attached to the animal's collar. The tag is a flat circular disc (see figures and page 14). The tag is impregnated with insecticidal compounds; however, the reference does not specifically teach impregnating the disc with essential oils.

US '753 teaches that tea tree oil can be impregnated into plastic in order to repel insects from animals (see column 3, lines 17-20).

US '600 teaches that lemongrass oil can be impregnated into plastic in order to repel insects from animals (see column 7, lines 18-20).

US '377 teaches that peppermint can be impregnated into plastic in order to repel insects from animals (see column 6, lines 42-45).

Thus, a person of ordinary skill in the art would reasonably expect that the insect repellants in the animal tag of WO '084 could successfully be substituted with a combination of tea tree, lemongrass, and peppermint oil because all of these oils are insect repellants that function successfully when impregnated in plastic. Based on this reasonable expectation of successful results, an artisan of ordinary skill would have been motivated to modify the animal tag of WO '084 to include tea tree, lemongrass, and peppermint oils.

9. No claims are allowed.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Susan Coe whose telephone number is (571) 272-0963. The

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examiner can normally be reached on Monday to Thursday from 8:00 to 5:30 and on alternating Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bruce Campell, can be reached on (571) 272-0974. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0196.

  
Susan D. Coe, Examiner  
July 2, 2004